REMARKS

Claims 1-30 are presented for examination.

Claims 1-5, 7-14, 16-20, 22, and 24-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rose in view of Bailey Jr. et al. Dependent claims 8, 15, 21 and 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rose and Bailey Jr. in view of Weaver.

These rejections are respectively traversed for the following reasons.

Claim 1 recites a system for selling goods that comprises an electronic device configured to enable a customer to access a group of items pre-selected for the customer based on an evaluation made when the goods are tried on by a human model having individual characteristics representing characteristics of the customer.

The Examiner admits that Rose does not disclose pre-selecting a group of items based on evaluation made when the goods are tried on by a human model, as claim 1 requires. Bailey Jr. et al. is relied upon for disclosing an online shopping systems wherein human models try on clothing (the last paragraph of p. 6 and the first paragraph of p. 7).

Considering Bailey Jr. et al., the reference discloses a website giving access to a variety of catalogues containing clothes in various styles. Clothing is projected as a 3D model that can be rotated. Video and sound clips are available to display and describe the clothing on human models with varying physical characteristics. This display allows the customer to gain a better idea of how the clothing might look on them (the paragraph bridging pages 6 and 7).

Accordingly, Bailey Jr. et al. does not teach or suggest enabling a customer to access a group of items pre-selected based on evaluation made when the goods are tried

on by a human model. Instead, the reference suggests selecting particular clothing based on clips displaying human models wearing this clothing. It is noted that Bailey Jr. et al. discloses a system for selling custom-tailored clothing (see the first full paragraph in the last column on page 6).

Also, Bailey Jr. et al. does not disclose that the goods are tried on by a human model having individual characteristics representing characteristics of the customer. Instead, each customer watches clothing on human models with different physical characteristics. It is noted that this process is similar to watching clothing on models during a fashion show.

Moreover, Bailey Jr. et al. teaches away from the claimed invention thereby constituting further **evidence of nonobviousness**. ***In re Bell***, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); ***In re Hedges***, 783 F.2d 1038, 228 USPQ 685 (Fed. Cir. 1986); ***In re Marshall***, 578 F.2d 301, 198 USPQ 344 (CCPA 1978).

In particular, Bailey Jr. et al. discloses that based on particular physical characteristics of a customers such as body measurements, "the resulting garment is presented for inspection on an appropriately proportioned computer generated model" (the first full paragraph on page 7). Hence, instead of using a human model having individual characteristics of the customer, Bailey Jr. et al. suggests using a computer generated model having characteristics of a customer.

Inasmuch as Rose also does not disclose the claimed features discussed above, a combination of Rose with Bailey Jr. et al. does not suggest the invention recited in claim 1.

Moreover, the proposed combinations of the references would not suggest the features recited in the dependent claims 2-13.

For example, claim 2 requires that the evaluation made when the goods are tried on by a human model is performed by the human model trying on the goods to evaluate whether the goods fit the model. Claim 3 requires that the evaluation made when the goods are tried on by a human model is performed by an expert evaluating whether the goods are suitable for the human model trying on the goods.

As discussed above, Bailey Jr. et al. does not suggest these features. Rose does not teach using human models. Therefore, the combination of these references is not sufficient to arrive at the claimed inventions.

Independent claim 14 recites a method of selling goods, comprising the steps of:

- selecting human models representing categories of a pre-set classification of goods,

- trying on the goods by the human models of the respective categories,

- evaluating the goods when the goods are tried on to determine an evaluation result,

- obtaining individual characteristics of a customer to determine to which category in the pre-set classification the customer belongs, and

- enabling the customer to access a group of items pre-selected based on the evaluation result in the category to which the customer belongs.

The Examiner admits that Rose does not teach using a human model. Hence, this reference neither teaches nor suggests the claimed steps involving human models.

Also, as discussed above, Bailey Jr. et al. neither teaches nor suggests the claimed steps of selecting human models representing categories of a pre-set classification of goods, trying on the goods by the human models of the respective categories, and enabling the customer to access a group of items pre-selected based on the evaluation result in the category to which the customer belongs (determined based on obtained individual characteristics of a customer).

Moreover, Bailey Jr. et al. teaches away from the claimed steps by suggesting a computer generated model produced based on obtained body measurements of a customer.

In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. ***In re Lalu***, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984). As demonstrated above, the combined teachings of Rose and Bailey Jr. et al. are not sufficient to suggest the claimed steps. Hence, the subject matter of claim 14 is not obvious within the meaning of 35 U.S.C. 103.

Moreover, the proposed reference combinations would not teach or suggest the features recited in the dependent claims 15-26.

Independent claim 27 recites a retail system comprising:

- a plurality of retail facilities for selling pre-ordered food products, and

- an ordering mechanism for enabling customers to order clothes items, together with the food products, for delivery at a designated retail facility of the plurality of retail

facilities, the ordering mechanism includes an electronic device configured for displaying images of human models wearing the clothes items.

As the Examiner admits, Rose does not disclose selling pre-ordered food products. Bailey Jr. et al. also does not disclose this feature.

The Examiner takes the position that it is common in the art for retail facilities to sell both food products and clothing. However, it is respectfully submitted that claim 27 does not recite selling both food products and clothing. Instead, the claim recites ordering clothes items, together with the food products, for delivery at a designated retail facility of the plurality of retail facilities.

Dependent claim 28 further recites a storage facility for serving the retail facilities in a particular area, and a clothes warehouse for storing available clothes items. The ordered clothes items are delivered from the clothes warehouse to the storage facility that serves the designated retail facility, and from the storage facility to the designated retail facility, together with the food products to be delivered to the designated retail facility, as claims 29 and 30 requires.

None of the references teaches or suggests these features. The Examiner has apparently failed to give adequate consideration to the particular problems and solution addressed by the claimed invention. ***Northern Telecom, Inc. v. Datapoint Corp.***, 908 F.2d 931, 15 USPQ2d 1321 (Fed. Cir. 1990); ***In re Rothermel***, 276 F.2d 393, 125 USPQ 328 (CCPA 1960). Specifically, the claimed invention makes it possible to combine ordering clothes items with ordering food products to reduce the retail cost by transporting clothes items together with pre-ordered food products. None of the references addresses the problem and solution addressed by the claimed invention.

Hence, the Examiner's position of obviousness with respect to claims 27-30 is unwarranted.

In view of the foregoing, and in summary, claims 1-30 are considered to be in condition for allowance. Favorable reconsideration of this application is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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